IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

M.A.C.A.No.2108 of 2006(A)

O.P.(M.V).1433/2000 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY.

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APPELLANT/RESPONDENT NO.2:-

P. GIREESH BABU, S/O. KUMARAN,
AGED 42 YEARS, PUTHUSSERI HOUSE, NR.VATTAKKULAM,
THOTTADA P.O., KANNUR-670 566.

BY ADV. SMT.S.AMBIKA DEVI
SRI.P.U.SHAILAJAN

RESPONDENTS: PETITIONER AND RESPONDENTS 1 AND 3:-

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1. C. KUNHAMBU, S/O. PAITHAL,
   AGED 66 YEARS, CHORAN HOUSE, KANNADIPARAMBA,
   P.O. KANNADIPARAMBA-670604, KANNUR DISTRICT.

2. PALANGAT PARAMBIL ASHARAF,
   S/O. EBRAHIM KUTTY, AGED 32 YEARS,
   PALANGAT PARAMBIL HOUSE, KANNADIPARAMBA AMSOM,
   DESOM, P.O. KANNADIPARAMBA-670604, KANNUR DIST.

3. ORIENTAL INSURANCE CO. LTD.,
   CITY BRANCH OFFICE NO.437, SOUTH BAZAR,
   KANNUR-2, KANNUR DISTRICT.

R3 BY STANDING COUNSEL SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 12/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

APPELLANT'S EXHIBITS:-

EXT.B1 - TRUE COPY OF DRIVING LICENCE NO.1364/98-C OF P.P.ASRAF.

EXT.B2 - TRUE COPY OF PASSPORT NO.F 0389547 OF PALANGAT PARAMBIL ASRAF.

- TRUE COPY -

K.Padmanabhan Nair,J.

M.A.C.A.No.2108 of 2006-A

Dated, this the 12th day of March, 2007

JUDGMENT

Heard. Admitted. Sri.George Cherian takes notice for the 3rd respondent. In view of the contention raised by the appellant in the appeal, notice to respondents 1 and 2, who are the claimant and driver respectively, is dispensed with and the appeal itself is heard and disposed of.

2. The Tribunal awarded an amount of Rs.59,000/- as compensation and held that respondents 1 to 3 therein are jointly and severally liable for the same, but added a rider to that award that the 3rd respondent-Insurer is at liberty to realise the award amount from the appellant-2nd respondent, the registered owner of the scooter as the driver of the vehicle is not possessed of a valid driving licence.

3. In this appeal, the appellant filed a petition to accept additional evidence to show that the driver was holding a valid driving licence at the time of incident. Appellant produced a copy of the Driving Licence as well as Passport. He also produced

the original Driving Licence for verification. The application was allowed and the copies of the Driving Licence and Passport were marked as Exhibits B1 and B2. In view of the additional evidence adduced in this appeal, the liberty given to the Insurer to recover the amount from the registered owner, the appellant, is to be vacated.

In the result, the appeal is allowed to the extent of vacating that part of the award by which the 3rd respondent-Insurer was given liberty to realise the award amount from the appellant, the registered owner of the scooter, who was the 2nd respondent in the claim petition. I.A.No.2351 of 2006 shall stand dismissed.

K.Padmanabhan Nair
Judge

vku/-